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5
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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 VICTOR MANUEL MARTINEZ
11 WARIO, an individual,

12 Plaintiff,

13 vs.

14 CITY OF WHITTIER, a public entity;
COUNTY OF LOS ANGELES, a
public entity; and
DOES 1 through 50, inclusive,

15 Defendants.

16 **CASE NO.: 2:24-cv-3580**

17 **Hon. Judge Percy Anderson**

18 **FIRST AMENDED COMPLAINT
FOR DAMAGES AND CLAIMS FOR
RELIEF:**

- 19 1. **VIOLATION OF CIVIL RIGHTS
(42 U.S.C. § 1983): UNLAWFUL
SEARCH AND SEIZURE;**
- 20 2. **VIOLATION OF CIVIL RIGHTS
(42 U.S.C. § 1983): *MONELL
CLAIM*; and**
- 21 3. **NEGLIGENCE.**

22 **DEMAND FOR JURY TRIAL**

23 **SUMMARY OF FACTS**

24 1. Plaintiff Victor Manuel Martinez Wario's claims arise out of the wrongful
arrest and imprisonment Mr. Wario suffered at the hands of the Whittier Police
Department (a department of Defendant City of Whittier) and the Los Angeles County
Sheriff's Department (a department of Defendant County of Los Angeles) in March
2023. As outlined below, what began as a simple traffic stop turned into a five-day

1 nightmare of incarceration without probable cause. As a result, Mr. Wario suffered, and
2 continues to suffer, emotional and mental trauma. He also missed time at work, and was
3 unable to provide care to his disabled fiancée.

4 2. On the evening of March 12, 2023, at approximately 8:30 p.m., Mr. Wario
5 was pulled over by the Whittier Police Department for a minor traffic infraction. During
6 the traffic stop, police officers erroneously determined that Mr. Wario had an active
7 warrant and placed him under arrest. At all times during the interaction, Mr. Wario was
8 fully compliant with officer directions and instructions, but he informed the officers that
9 he did not have any pending warrants or criminal cases. Nonetheless he was booked and
10 processed into the Whittier Police Department jail.

11 3. At some point in the evening, during the booking process, the officers
12 informed Mr. Wario that his warrant was for an old case in which he was convicted of
13 child molestation (California Penal Code § 288(a)). Mr. Wario again adamantly told
14 them that they had the wrong person and that his only criminal history was a
15 misdemeanor conviction for driving under the influence more than seven years
16 previously. It was later discovered that the child-molestation case in question was Los
17 Angeles County Case No. BA393467, with a conviction date of September 21, 2012.
18 On information and belief, the actual defendant in that case failed to check in with the
19 probation department following his conviction and failed to register as a sex offender
20 in accordance with California Penal Code § 290. Mr. Wario was held on no bail.

21 4. More than forty-eight hours later, just after midnight on March 15, 2023,
22 Mr. Wario was transferred to the custody of the Los Angeles Sheriff's Department and
23 was placed in Men's Central Jail. There, he was assigned special housing for custodies
24 with child-molestation cases and given a specially colored jumpsuit indicating his status
25 as a sex offender. A wristband was placed on his wrist also showing that his case
26 involved child molestation. Because of his perceived status as a convicted child
27 molester, Mr. Wario was in serious jeopardy of being attacked by fellow inmates.

28 5. Later in the morning on March 15, 2023, Mr. Wario was taken to the Los

1 Angeles County Criminal Courts Building for arraignment. There he had a short
2 meeting with his attorney, who promptly advised the court that it had the wrong
3 defendant. Judge Mary Lou Villar set bail at \$30,000, but would not release Mr. Wario.
4 She ordered a fingerprint expert to appear in court the following week to take Mr.
5 Wario's fingerprints and verify his identity. On the following day, March 16, 2023, the
6 Deputy District Attorney assigned to the case obtained the booking photo of the actual
7 defendant and determined that it was not Mr. Wario.

8 6. The next day, March 17, 2023, Mr. Wario was brought back to court and,
9 following a short hearing, was ordered released by Judge Villar. Despite the court's
10 order, it took an additional eight hours for Mr. Wario to be let out. This was a full five
11 days after his arrest.

12 7. During his unlawful confinement, Mr. Wario missed time at work and was
13 unable to care for his disabled fiancée, Sharlene Luckett. Additionally, as a result of his
14 ordeal, Mr. Wario suffered, and continues to suffer, extreme emotional distress,
15 sleeplessness, anxiety, and mental anguish.

16 8. On September 8, 2023, Mr. Wario, through counsel, filed a Government
17 Tort Claim with the City of Whittier. A notice of rejection of that claim was served on
18 Mr. Wario's counsel on October 31, 2023.

19 9. On September 8, 2023, Mr. Wario, through counsel, filed a Government
20 Tort Claim with the County of Los Angeles. A notice of denial of that claim was served
21 on Mr. Wario's counsel on November 8, 2023.

22 PARTIES

23 10. At all relevant times, Plaintiff Victor Manuel Martinez Wario was an
24 individual residing in the City of Norwalk, County of Los Angeles, State of California.

25 11. At all relevant times, Defendant City of Whittier was a governmental entity
26 organized and existing under the laws of the State of California in the County of Los
27 Angeles. At all relevant times, the Whittier Police Department (WPD) was a department
28 of Defendant City of Whittier. At all relevant times, WPD was a law-enforcement

1 agency responsible for the training and supervision of police officers.

2 12. At all relevant times, Defendant County of Los Angeles was a
3 governmental entity organized and existing under the laws of the State of California. At
4 all relevant times, the Los Angeles County Sheriff's Department (LASD) was a
5 department of Defendant County of Los Angeles. At all relevant times, LASD was a
6 law-enforcement agency responsible for the training and supervision of deputies.

7 13. Defendant City of Whittier is responsible for the actions, omissions,
8 policies, procedures, practices, and customs of its various agents and agencies,
9 including WPD and its agents and employees. At all relevant times, Defendant City of
10 Whittier was responsible for assuring that the actions, omissions, policies, procedures,
11 practices, and customs of WPD and its employees and agents complied with the laws
12 of the United States and those of the State of California.

13 14. At all relevant times, Defendants Does 1 through 25, inclusive, were
14 individuals residing in the County of Los Angeles in the State of California. At all
15 relevant times, Defendants Does 1 through 25 were police officers or other employees
16 or agents of Defendant City of Whittier and were acting within the course and scope of
17 their employment with Defendant City of Whitter and WPD and were acting under the
18 color of state law. At all relevant times, Defendant City of Whittier was the employer
19 of Defendants Does 1 through 25 and was responsible for their training and supervision.

20 15. At all relevant times, Defendants Does 16 through 25, inclusive, were
21 managerial, supervisory, and policymaking employees of WPD who were acting under
22 color of law within the course and scope of their duties as managerial, supervisory,
23 and policymaking employees. Defendants Does 16 through 25 were acting with the
24 complete authority and ratification of their principal, Defendant City of Whittier.

25 16. Defendant County of Los Angeles is responsible for the actions, omissions,
26 policies, procedures, practices, and customs of its various agents and agencies,
27 including LASD and its agents and employees. At all relevant times, Defendant County
28 of Los Angeles was responsible for assuring that the actions, omissions, policies,

1 procedures, practices, and customs of LASD and its employees and agents complied
2 with the laws of the United States and those of the State of California.

3 17. At all relevant times, Defendants Does 26 through 50, inclusive, were
4 individuals residing in the County of Los Angeles in the State of California. At all
5 relevant times, Does 26 through 50 were deputies or other employees or agents of
6 Defendant County of Los Angeles and were acting within the course and scope of their
7 employment with Defendant County of Los Angeles and LASD and were acting under
8 the color of state law. At all relevant times, Defendant County of Los Angeles was the
9 employer of Defendants Does 26 through 50 and was responsible for their training and
10 supervision.

11 18. At all relevant times, Defendants Does 41 through 50, inclusive, were
12 managerial, supervisorial, and policymaking employees of LASD who were acting
13 under color of law within the course and scope of their duties as managerial,
14 supervisorial, and policymaking employees. Does 41 through 50 were acting with the
15 complete authority and ratification of their principal, Defendant County of Los Angeles.

16 19. The true names and capacities, whether individual, corporate, associate, or
17 otherwise of Defendants Does 1 through 50 are unknown to Plaintiff at this time and
18 therefore Plaintiff sues these Doe Defendants under fictitious names. Plaintiff will seek
19 leave of Court to amend this First Amended Complaint when the true names and
20 capacities of these Doe Defendants are ascertained.

21 20. Plaintiff is informed and believes, and based upon such information and
22 belief, alleges that each Defendant sued herein is contractually, strictly, or vicariously
23 liable or otherwise legally responsible in some manner for each and every act, omission,
24 obligation, event, or happening set forth in this First Amended Complaint.

25 21. Plaintiff is informed and believes and thereon alleges that at all relevant
26 times, each of the Defendants, in addition to acting for himself, herself, or itself and on
27 his, her, or its own behalf, is and was acting as the agent, servant, employee, and
28 representative of, and with the knowledge, consent, and permission of each and all of

1 the Defendants.

2 22. Plaintiff further alleges that the acts of each of the Defendants were fully
3 ratified by each and all other Defendants. Specifically, and without limitation, Plaintiff
4 alleges on information and belief that the actions, failures to act, and breaches alleged
5 herein that are attributed to one or more of the Defendants were approved, ratified, and
6 done with the cooperation and knowledge of each and all of the other Defendants.

7 **FIRST CLAIM FOR RELIEF**

8 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**

9 **UNREASONABLE SEARCH AND SEIZURE**

10 ***(Plaintiff against Defendants Does 1–50)***

11 23. Plaintiff realleges and incorporates by reference the allegations contained
12 in all preceding paragraphs of this First Amended Complaint, as though fully set forth
13 herein.

14 24. As alleged herein, Defendants falsely arrested and imprisoned Plaintiff
15 without justification or probable cause. Defendants' unjustified actions deprived
16 Plaintiff of his right to be secure in his person against unreasonable search and seizure
17 as guaranteed under the Fourth and Fourteenth Amendments to the Constitution of the
18 United States.

19 25. Based on the facts readily available and known to Defendants, no
20 reasonable conclusion could be drawn that such an arrest and confinement was
21 reasonable. At all relevant times, Plaintiff was compliant and followed Defendants'
22 instructions. He did not have any outstanding warrants or wants and was not on
23 probation or parole, nor was he in violation thereof. No objective facts readily available
24 and known to Defendants could have reasonably led them to conclude that Plaintiff was
25 a fugitive from justice stemming from a 2012 child-molestation case. As a result of the
26 foregoing, Plaintiff suffered great emotional and mental distress. Further, Defendants'
27 actions violated their training and standard police-officer training.

28 26. Defendants, under color of law, intentionally, recklessly, negligently,

1 unlawfully, and with malice, fraud, and oppression violated Plaintiff's civil rights and
2 his right to be secure in his person against unreasonable search and seizure as
3 guaranteed to Plaintiff under the Fourth and Fourteenth Amendments.

4 27. Plaintiff further alleges that Defendants, with deliberate indifference to and
5 reckless disregard for the personal liberty and well-being of Plaintiff, and in violation
6 of the Fourth and Fourteenth Amendments, committed or allowed to be committed acts
7 that deprived Plaintiff of his constitutional rights.

8 28. Due to the conduct of Defendants, and each of them, Plaintiff has suffered
9 injury and is entitled to general damages and special damages, all in sums to be proved
10 at trial. Due to the conduct of Defendants, and each of them, Plaintiff has been required
11 to incur attorney's fees and will continue to incur attorney's fees, all to Plaintiff's
12 damage in a sum to be proved at trial and recoverable under 42 U.S.C. § 1988.

13 29. Defendants acted with a conscious disregard of Plaintiff's rights conferred
14 upon him by Section 1983, Title 42 of the United States Code; the Fourth Amendment
15 to the United States Constitution; and California Civil Code § 3333, by intentionally
16 and unnecessarily causing Plaintiff to be falsely imprisoned.

17 30. The conduct of Defendants constitutes malice, oppression, or fraud under
18 California Civil Code § 3294, entitling Plaintiff to punitive damages against the
19 individual Defendants in an amount suitable to punish and set examples of these
20 individual Defendants.

21 **SECOND CLAIM FOR RELIEF**

22 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**

23 ***MONELL CLAIM***

24 ***(Plaintiff against Defendants City of Whittier, County of Los Angeles,
25 Does 16–25, and Does 41–50)***

26 31. Plaintiff realleges and incorporates by reference the allegations contained
27 in all the preceding paragraphs of this First Amended Complaint as though fully set
28 forth herein.

1 32. At all relevant times, the Defendant police officers and deputies acted
2 under color of law. The acts of the Defendant police officers and deputies violated
3 Plaintiff's rights under the United States Constitution and its Fourth and Fourteenth
4 Amendments.

5 33. Upon information and belief, Defendants Does 16 through 25 and Does 41
6 through 50 were the final policymakers, acting under color of law, who had final
7 policymaking authority concerning the acts of Does 1 through 15 and Does 26 through
8 40. Defendants Does 16 through 25 ratified the Defendant police officers' and deputies'
9 acts and the bases for them. On information and belief, the final policymakers knew of
10 and specifically approved of the Defendant police officers' and deputies' acts.

11 34. On information and belief, final policymakers have determined that the
12 acts of the Defendant officers and deputies were "within policy."

13 35. Accordingly, Defendants City of Whittier and County of Los Angeles are
14 liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

15 36. The training policies of Defendants were not adequate to train officers and
16 deputies to handle the usual and recurring situations with which they must deal.

17 37. Defendants City of Whittier and County of Los Angeles were deliberately
18 indifferent to the obvious consequences of their failures to train their officers and
19 deputies adequately.

20 38. The failures of Defendants City of Whittier and County of Los Angeles to
21 provide adequate training caused the deprivation of Plaintiff's rights by the Defendant
22 police officers and deputies; that is, Defendant City Whittier's and Defendant County
23 of Los Angeles's failures to train are so closely related to the deprivation of Plaintiff's
24 rights as to be the moving force that caused the ultimate injury.

25 39. On information and belief, Defendants City of Whittier and County of Los
26 Angeles failed to train the Defendant police officers and deputies properly and
27 adequately. By reason of the aforementioned acts and omissions, Plaintiff has been
28 injured.

1 40. Accordingly, Defendants City of Whittier and County of Los Angeles are
2 liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

3 41. The Defendant police officers and deputies acted according to expressly
4 adopted official policies or longstanding practices or customs of Defendants City of
5 Whittier and County of Los Angeles.

6 42. On information and belief, the Defendant police officers and deputies were
7 not disciplined, reprimanded, retrained, suspended, or otherwise penalized in
8 connection with Plaintiff's injuries.

9 43. Defendant City of Whittier's and Defendant County of Los Angeles's
10 policymakers and supervisors maintained, *inter alia*, the following unconstitutional
11 customs, practices, and policies:

- 12 (a) Arresting and imprisoning individuals without a warrant or probable cause,
13 violating a person's rights under the Fourth and Fourteenth Amendments to the
14 Constitution of the United States;
- 15 (b) Providing inadequate training regarding search and seizure;
- 16 (c) Employing and retaining as police officers and deputies individuals such as the
17 Defendant police officers and deputies, whom Defendants City of Whittier and
18 County of Los Angeles at all times material herein knew or reasonably should
19 have known had dangerous propensities for abusing their authority and arresting
20 and confining individuals without a warrant or probable cause;
- 21 (d) Inadequately supervising, training, controlling, assigning, and disciplining City
22 of Whittier and County of Los Angeles officers and deputies, and other personnel,
23 including the Defendant police officers and deputies, whom Defendants City of
24 Whittier and County of Los Angeles knew or in the exercise of reasonable care
25 should have known had the aforementioned propensities and character traits;
- 26 (e) Maintaining grossly inadequate procedures for reporting, supervising,
27 investigating, reviewing, disciplining, and controlling misconduct by the
28 Defendant officers and deputies;

- 1 (f) Failing to adequately discipline City of Whittier and County of Los Angeles
2 police officers and deputies, including the Defendant police officers and deputies,
3 for the above-referenced categories of misconduct, including by employing mere
4 “slap-on-the-wrist” discipline that is so slight as to be out of proportion to the
5 magnitude of the misconduct, and other inadequate discipline that is tantamount
6 to encouraging misconduct;
- 7 (g) Announcing that the use of unjustified arrests is “within policy,” including
8 conduct later determined to be unconstitutional;

- 9 (h) Even when a search and seizure is determined in court to be unconstitutional,
10 refusing to discipline, terminate, or retrain the officers or deputies involved;

11 44. By reason of the aforementioned acts and omissions, Plaintiff has suffered
12 injuries and is entitled to damages in an amount to be proved at trial.

13 45. Defendants City of Whittier, County of Los Angeles, Does 16 through 25,
14 and Does 41 through 50, together with various other officials, whether named or
15 unnamed, had either actual or constructive knowledge of the deficient policies,
16 practices, and customs alleged in the paragraphs above. Despite having knowledge as
17 stated above, these Defendants condoned, tolerated, and, through actions and inactions,
18 thereby ratified, such policies. Defendants also acted with deliberate indifference to the
19 foreseeable effects and consequences of these policies with respect to the constitutional
20 rights of Plaintiff and other individuals similarly situated.

21 46. By perpetrating, sanctioning, tolerating, and ratifying the outrageous
22 conduct and other wrongful acts, the Defendant police officers and deputies acted with
23 intentional, reckless, and callous disregard for Plaintiff’s constitutional rights. Further,
24 the policies, practices, and customs implemented, maintained, and still tolerated by
25 Defendants City of Whittier, County of Los Angeles, Does 16 through 25, and Does 41
26 through 50 were affirmatively linked to and were a significantly influential force behind
27 Plaintiff’s injuries.

28 ///

47. Accordingly, Defendants City of Whittier, County of Los Angeles, Does 16 through 25, and Does 41 through 50 are each liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

THIRD CLAIM FOR RELIEF

NEGLIGENCE

(Plaintiff against all Defendants)

48. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs of this First Amended Complaint, as though fully set forth herein.

49. Defendants had a duty to use reasonable care in their interactions with Plaintiff and to ensure that he was free from foreseeable risks of harm caused by Defendants' conduct. Defendants had a duty not to expose Plaintiff to reasonably foreseeable risks of harm, including, but not limited to, harm caused by arresting and imprisoning Plaintiff without a warrant or probable cause.

50. At all relevant times, no probable cause existed to arrest and confine Plaintiff. At all relevant times, Defendants had no reasonable basis to believe that Plaintiff had any outstanding warrants or wants or that Plaintiff was on probation or parole or was in violation thereof.

51. Based on the facts readily available and known to Defendants, no reasonable conclusion could be drawn that probable cause existed to arrest and confine Plaintiff. All objective facts readily available and known to Defendants could not have reasonably led the Defendant police officers or deputies to conclude that Plaintiff was a fugitive from justice.

52. In light of the foregoing facts, knowledge, and circumstances, no reasonable person or reasonable officer or deputy could have believed that probable cause existed to arrest and incarcerate Plaintiff. Moreover, in light of the foregoing, no material ambiguities existed and no reasonable person could have believed that Plaintiff had committed any offense or that Plaintiff was sought by authorities. Accordingly, no

1 reasonable person or reasonable officer or deputy, acting on these facts, could sensibly
2 or reasonably conclude that probable cause existed to arrest and imprison Plaintiff.

3 53. Defendants had a duty to use reasonable care in their interactions with
4 Plaintiff and to ensure that Plaintiff was free from foreseeable risks of harm caused by
5 Defendants' conduct while interacting with Plaintiff. Defendants had a duty not to
6 expose Plaintiff to reasonably foreseeable risks of deprivation of his rights.

7 54. Defendants breached their duty of care owed to the public and especially
8 to Plaintiff by failing to act with the requisite care required, and Defendants caused
9 Plaintiff to suffer injuries including but not limited to mental and emotional anguish.
10 Defendants breached their duty despite knowing that Plaintiff was innocent of any
11 criminal activity.

12 55. Defendants knew, or in the exercise of ordinary and reasonable care should
13 have known, that Defendants' conduct posed a significant risk of harm to Plaintiff, as it
14 did when Defendants interacted with Plaintiff and caused him to be unlawfully arrested
15 and incarcerated and to suffer harm that would not have otherwise occurred but for the
16 unreasonable conduct of Defendants. Defendants breached the duty of care owed to the
17 public and to Plaintiff by failing to act with the requisite care and causing Plaintiff to
18 suffer an unlawful arrest and confinement.

19 56. Defendants City of Whittier and County of Los Angeles are vicariously
20 liable for the wrongful acts of their officers and deputies under section 815.2(a) of
21 the California Government Code, which provides that a public entity is liable for the
22 injuries caused by its employees within the scope of the employment if the employee's
23 acts would subject him or her to liability.

24 57. As a direct and proximate result of Defendants' conduct, Plaintiff has
25 suffered injury to his mind, mental anguish, and emotional distress and is entitled to
26 past and future special damages and past and future general damages in amounts
27 according to proof.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff VICTOR MANUEL MARTINEZ WARIO prays for judgment as follows:

1. For general damages in an amount to be determined by proof at trial;
 2. For special damages in an amount to be determined by proof at trial;
 3. For punitive and exemplary damages as allowed by law;
 4. For costs of suit;
 5. For reasonable attorney's fees and costs as provided by statute; and
 6. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Victor Manuel Martinez Wario hereby demands a jury trial.

DATED: May 2, 2024

GAMMILL LAW, APC

By: /s/ David Gammill
DAVID W. GAMMILL
Attorney for Plaintiff
VICTOR MANUEL MARTINEZ
WARIO